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AN ACT

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RELATING TO TAXATION; EXPANDING THE AUTHORITY OF THE TAXATION AND REVENUE DEPARTMENT TO ENTER INTO A COOPERATIVE TAX CREDIT AGREEMENT WITH A TRIBE THAT HAS IMPOSED A TAX SIMILAR TO THE GROSS RECEIPTS TAX; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223,

Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO CERTAIN TRIBES.--

A. If on a taxable transaction taking place on tribal land a qualifying gross receipts, sales or similar tax has been levied by the tribe, the amount of the tribe's tax may be credited against gross receipts tax due this state or its political subdivisions pursuant to the Gross Receipts and Compensating Tax Act and a local option gross receipts tax on the same transaction. The amount of the credit shall be equal to the lesser of seventy-five percent of the tax imposed by the tribe on the receipts from the transaction or seventy-five percent of the revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of local option gross receipts taxes imposed on the receipts from the same transaction. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied proportionately against the amount of the gross receipts tax and local option gross receipts taxes and against the amount of distribution of those taxes pursuant to Section 7-1-6.1 NMSA 1978.

B. A qualifying gross receipts, sales or similar tax levied by the tribe shall be limited to a tax that:

(1) is substantially similar to the gross receipts tax imposed by the Gross Receipts and Compensating Tax Act;

1 (2) does not unlawfully discriminate among persons or SB  
2 transactions based on membership in the tribe;

3 (3) is levied on the taxable transaction at a rate not greater 6  
4 than the total of the gross receipts tax rate and local option gross receipts tax rates 0  
5 imposed by this state and its political subdivisions located within the exterior 2  
6 boundaries of the tribe; P  
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9 (4) provides a credit against the tribe's tax equal to the lesser 2  
10 of twenty-five percent of the tax imposed by the tribe on the receipts from the  
11 transactions or twenty-five percent of the tax revenue produced by the sum of the rate  
12 of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the  
13 total of the rates of the local option gross receipts taxes imposed on the receipts from  
14 the same transactions; and

15 (5) is subject to a cooperative agreement between the tribe  
16 and the secretary entered into pursuant to Section 9-11-12.1 NMSA 1978 and in effect  
17 at the time of the taxable transaction.

18 C. For purposes of the tax credit allowed by this section:

19 (1) "pueblo" means the Pueblo of Acoma, Cochiti, Isleta,  
20 Jemez, Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, San  
21 Juan, Santa Ana,  
22 Santa Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the nineteen New Mexico  
23 pueblos acting collectively;

24 (2) "tribal land" means all land that is owned by a tribe located  
25 within the exterior boundaries of a tribe's reservation or grant and all land held by the  
United States in trust for that tribe; and

(3) "tribe" means a pueblo, the Jicarilla Apache Nation or the  
Mescalero Apache Tribe."

Section 2. Section 9-11-12.1 NMSA 1978 (being Laws 1997, Chapter 64,  
Section 1, as amended) is amended to read:

"9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS.--

1                   A. The secretary may enter into cooperative agreements with the  
2 Pueblos of Acoma, Cochiti, Jemez, Isleta, Laguna, Nambe, Picuris, Pojoaque, Sandia,  
3 San Felipe,  
4 San Ildefonso, San Juan, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque,  
5 Zia and Zuni; the Jicarilla Apache Nation; the Mescalero Apache Tribe; and with the  
6 nineteen pueblos acting collectively for the exchange of information and the reciprocal,  
7 joint or common enforcement, administration, collection, remittance and audit of gross  
8 receipts tax revenues of the party jurisdictions.

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8                   B. Money collected by the department on behalf of a tribe in  
9 accordance with an agreement entered into pursuant to this section is not money of  
10 this state and shall be collected and disbursed in accordance with the terms of the  
11 agreement, notwithstanding any other provision of law.

12                   C. The secretary is empowered to promulgate such rules and to  
13 establish such procedures as the secretary deems appropriate for the collection and  
14 disbursement of funds due a tribe and for the receipt of money collected by a tribe for  
15 the account of this state under the terms of a cooperative agreement entered into  
16 under the authority of this section, including procedures for identification of taxpayers  
17 or transactions that are subject only to the taxing authority of the tribe, taxpayers or  
18 transactions that are subject only to the taxing authority of this state and taxpayers or  
19 transactions that are subject to the taxing authority of both party jurisdictions.

19                   D. Nothing in an agreement entered into pursuant to this section shall  
20 be construed as authorizing this state or a tribe to tax persons or transactions that  
21 federal law prohibits that government from taxing or as authorizing a state or tribal  
22 court to assert jurisdiction over persons who are not otherwise subject to that court's  
23 jurisdiction or as affecting any issue of the respective civil or criminal jurisdictions of  
24 this state or the tribe. Nothing in an agreement entered into pursuant to this section  
25 shall be construed as an assertion or an admission by either this state or a tribe that  
the taxes of one have precedence over the taxes of the other when the person or

1 transaction is subject to the taxing authority of both governments. An agreement  
2 entered into pursuant to this section shall be construed solely as an agreement  
3 between the two party governments and shall not alter or affect the government-to-  
4 government relations between this state and any other tribe.

E. As used in this section:

5 (1) "tribal" means of or pertaining to a tribe; and

6 (2) "tribe" means an Indian nation, tribe or pueblo located  
7 entirely in New Mexico."

8 Section 3. REPEAL.--Section 7-9-88 NMSA 1978 (being Laws 1997, Chapter  
9 64, Section 2) is repealed.

10 Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act  
11 is July 1, 2003.

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